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Issued May 4, 1910.

United States Department of Agriculture,

BUREAU OF BIOLOGICAL SURVEY—Circular No. 72.

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PRIVATE GAME PRESERVES AND THEIR FUTURE IN THE UNITED STATES.

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INTRODUCTION.

In game protection, as in other matters, the experience of one State is likely to be duplicated in another, and the laws and precedents of one section of the country are apt to be followed in others in which conditions are similar. The record of the past, therefore, becomes in some measure a guide to the future, and by careful study of past mistakes it may be possible to avoid similar errors in future.

The history of game preserves in the United States has been a record of a series of experiments, some successful and some otherwise. Notwithstanding the fact that the private preserve has existed for many years, it is still in an experimental stage, and in some States in a condition far from satisfactory. As the country develops and increases in population, the private game preserve is destined to play a more and more important part, not only as a factor in game preservation, but also as a means of recreation and diversion.

CONDITIONS IMPORTANT FOR PRIVATE GAME PRESERVES.

Three conditions are important for the successful establishment of a private game preserve: A location where game is or may become naturally abundant, suitable land of moderate value, and ability to prevent trespass. Absence of any one of these, while not necessarily prohibitory, renders success doubtful. Preserves may be successfully established in places where game is not locally abundant, as, for example, in southern California, where certain ducking clubs, by sinking wells, digging ponds, building dikes, and supplying suitable food, have made artificial marshes and created conditions which attract ducks in large numbers. But these California preserves are well within the birds' natural range, and the expedient of improving local conditions simply attracts the game to the spot. On the other hand,

attempts to maintain antelope, mule deer, or moose in private parks outside their natural range have met with little or no success. Frequently land suitable for game preserves is of little value for other purposes. It is, of course, possible to establish a deer park or a small preserve almost anywhere, irrespective of the cost of the land, but as a rule land valuable for agriculture commands a price prohibitive of its utilization as a game preserve.

The existence of adequate trespass laws or of statutes regulating hunting on uninclosed lands is likewise an important factor affecting the location of private preserves. If a preserve must be fenced to protect it against trespass, the cost usually places it beyond the reach of a man of ordinary means. Consequently, large tracts can be utilized for this purpose at moderate cost only in States which restrict hunting on uninclosed lands, as in Colorado, Indiana, Illinois, New York, Wisconsin, and some of the Southern States. In some of these States, as in Colorado and Wisconsin, it is unlawful to hunt on inclosed or cultivated lands if signs are posted at certain specified distances. In New York a person, in order to maintain the exclusive right to hunt or fish on inclosed or cultivated lands, is required to post trespass notices on at least every 50 acres. In Illinois and Indiana it is unlawful to hunt with dog or gun on any lands without the consent of the owner. North Carolina and several other Southern States have the so-called "written permission law," which prohibits hunting except under a written permit signed by the owner or agent of the property. Where laws like these are in force, preserves have rapidly increased in number, but in other States the preserve idea has never made great progress. About one-third of the States have incorporated some provision in their game laws favoring the establishment of preserves, by granting exemptions for the capture or possession of game, or allowing its sale or shipment under certain regulations. In some cases, however, these provisions are still too limited to encourage the establishment of private preserves.

HISTORICAL.

The game preserve in the form of a deer park as an adjunct to a private estate dates back to the earliest colonial days. One of the first, if not the first, in America was located in Maryland, on the eastern side of Chesapeake Bay, near its head. Augustine Hermann, a cartographer, born at Prague, Bohemia, in 1608, came to Maryland in 1659 and surveyed and mapped the province, a service for which he received a grant of land in Cecil County. Here he founded in 1661 the manor of Bohemia, and among other attractions added "a large deer park, the walls of which are still standing."^a In the de-

^a Wilson, J. G., *A Maryland Manor*, p. 15, 1890.

scriptions of colonial estates, particularly those in Maryland and Virginia, frequent references may be found to deer parks.

In 1753 Benjamin Tasker, the governor of Maryland, on retiring from office laid out his country seat Belair, near Collington, Prince George County, in true manorial style, and included in the improvements a park for deer.

Another celebrated estate in Maryland was that of Harewood, on Gunpowder River, near Baltimore, which about the year 1830 included a deer park of some 300 acres, where "200 deer may often be seen at a single view."^a Here experiments were made in introducing pheasants, European quail, and red-legged partridges, but proved unsuccessful, owing chiefly to depredations of poachers and natural enemies. Thirty years later, about 1858-59, was established the deer park of Judge J. D. Caton, near Ottawa, Ill. This park, which originally comprised but 40 acres and was afterwards increased to 200, was the first of its kind in the United States. It was established solely for the purpose of observing and studying the various kinds of big game in a state of captivity. Here the observations were made which formed the basis of the owner's well-known work on the Antelope and Deer of America.

The first game preserve belonging to an incorporated association was that established by the Blooming Grove Park Association in 1871, for the purpose "of preserving, importing, breeding, and propagating game animals, birds, and fish, and of furnishing facilities to the members for hunting, shooting, and fishing on its grounds." One of the important features was a deer park. This venture was followed a few years later by numerous other parks of various kinds, until they now number several hundred.

TYPES OF PRIVATE PRESERVES.

The private game preserves thus far established in the United States may be roughly divided into three main groups: (1) Deer parks or inclosed preserves for big game of any kind; (2) uninclosed upland preserves for either big game or game birds; and (3) duck preserves and marshes. These preserves are owned in fee simple or are rented. They are the property of individuals, clubs, or corporations, and are maintained for pleasure or profit, as parks or shooting preserves, or as propagating plants. While space does not permit a detailed discussion of the number, extent, location, or management of these various holdings, mention of a few typical preserves in this country will be of service in comparing conditions in the United States with those in other countries.

^a *Turf Register*, 11, p. 130, November, 1830.

DEER PARKS.

Complete statistics regarding private deer parks in the United States are not at present available, but a few examples will show that the parks in this country compare favorably in size with those abroad. According to statistics collected a few years ago, covering nearly 400 private deer parks in England,^a only 10 contained more than 2,000 acres each. Their total area was about 148,000 acres, or an average of 37 acres in each park. The deer forests of Scotland are larger than those of England, some of them exceeding 40,000 acres in extent, and the total area of 130 is 2,552,383 acres.^b In Russia the celebrated private deer park of Count Patocki, in the Province of Volhymnia, has an area of 7,000 acres.

In comparison with these parks may be mentioned the Blue Mountain Forest Park, near Newport, Sullivan County, N. H., established by the late Austin Corbin about 1885. This park, the largest inclosed game preserve in the United States, comprises about 25,000 acres of mountain and valley. Croydon Mountain extends through its full length, nearly 11 miles. (See Pl. I.) The park has been stocked with big game, of which buffalo, elk, deer, and wild boars have proved most successful. Between 1890 and 1892 about 25 buffalo were secured and by 1908 they had increased to 136. The elk were at one time estimated at 1,000, but many perished during the severe winter of 1897, and in 1903 the estimated number was only 300. The deer, in 1903, were placed at 2,000 and the wild boars at about 500. Special provision for the protection of the game in the park was made by the state legislature in 1895 in an act incorporating the Blue Mountain Forest Association.

Following is a list of ten of the largest deer parks in England and the United States, arranged according to area. Only parks which are inclosed and contain big game are included.

Ten large deer parks in England and the United States.

England.		United States.	
Name.	Area.	Name.	Area.
	Acres.		Acres.
Savernake, Wiltshire.....	4,000	Blue Mountain Forest, New Hampshire.....	25,000
Windsor, Berkshire.....	3,000	Grand Island Preserve, Michigan.....	13,800
Knowsley, Lancashire.....	2,600	Litchfield Game Preserve, New York.....	10,000
Eridge, Sussex.....	2,500	Buckland Park, New Jersey.....	4,000
Duncombe, Yorkshire.....	2,345	Otzinachson Club, Pennsylvania.....	4,000
Blenheim, Oxfordshire.....	2,254	Dietrich Preserve, New York.....	3,000
Buckhurst, Sussex.....	2,100	Glen Beulah Park, Colorado.....	2,000
Ickworth, Suffolk.....	2,000	Mount Pocono, Pennsylvania.....	1,200
Tatton, Cheshire.....	2,000	Ha-Ha-Tonka, Missouri.....	1,000
Thoresby, Nottinghamshire.....	2,000	Blooming Grove Park, Pennsylvania.....	1,000

^a Whittaker, Joseph, Deer Parks and Paddocks of England, 1892.

^b Grimble, A., Deer Forests of Scotland, 1896.



FIG. 1.—CENTRAL STATION NEAR NEWPORT, SHOWING CLUBHOUSE AND OTHER BUILDINGS.



FIG. 2.—GENERAL VIEW OF THE PARK, FROM A HILL TO THE SOUTHEAST. CROYDON MOUNTAIN IN THE BACKGROUND.



FIG. 3.—NORTHWEST CORNER, SHOWING OPEN SECTIONS OF THE PARK.

BLUE MOUNTAIN FOREST PARK, NEW HAMPSHIRE, THE LARGEST FENCED PRESERVE IN THE UNITED STATES.



In the upland preserve under private ownership may be found one of the most important factors in the maintenance of the future supply of game and game birds. Nearly all such preserves are maintained for the propagation of deer, quail, grouse, or pheasants. They vary widely in area, character, and purpose, and embrace some of the largest game refuges in the country. Some of the preserves in North Carolina cover from 15,000 to 30,000 acres, several in South Carolina exceed 60,000 acres in extent, while the Megantic Club's preserve, on the boundary between Quebec and Maine, comprises nearly 200 square miles, or upward of 125,000 acres. Comparatively few of the larger preserves are inclosed. In some instances part of the tract is fenced, while large areas are uninclosed, but are protected by being posted. The character of their tenure varies also. Some are owned in fee simple; others, particularly the larger ones, are leased, or comprise merely the shooting rights on the land. In both size and tenure the upland preserves of the United States are comparable with the grouse moors and large preserves of Scotland. Several of those in Ross-shire vary from 40,000 to 45,000 acres in extent, and one in Aberdeenshire has an area of 110,000 acres.

Not all upland preserves are on wild land. Many of the quail-shooting preserves of the South include farming land, the owners having leased the shooting rights, in return being relieved of their taxes and to a certain extent of the trouble of protecting their property against indiscriminate hunting. In central North Carolina may be found a very interesting group of leased preserves, some of which contain several thousand acres, while nearly all are made up by combining farms of moderate size. Here the preserve idea does not seem to interfere with agriculture, and has been welcomed by the small landowner as a means of securing, through lease of the shooting rights, an income from his holdings at least equal to his taxes, and in many cases exceeding them. In this group belong many preserves controlled by clubs composed of men of moderate means unable to enjoy the luxury of inclosed parks for big game or of membership in the expensive clubs which maintain ducking preserves. Those who have not investigated the subject will doubtless be surprised to learn the comparatively small cost of a club of this kind, which leases a few hundred acres and has none of the expenses connected with an elaborately appointed clubhouse, keepers, and other appurtenances usually associated with a private game park.

Wherever private preserves are located, native game is protected and is almost certain to increase. Frequently pheasants, deer, and waterfowl are imported and liberated. In such cases the benefit is

not confined to the owner, for the game sooner or later spreads to adjoining lands and the preserve thus furnishes a supply of game for the surrounding country. In this way certain sections near Oak Park, Ill., and some of the counties of northern New Jersey have been stocked with birds from private pheasantry. Deer from the parks in New Jersey, southern Vermont, and certain parts of Pennsylvania have escaped or been liberated and have restocked the country for miles around. Occasionally more extensive experiments are made in importing the rarer pheasants, capercailzie, European grouse, and wild boars, or regular propagating plants are established and birds are reared in large numbers, as on some of the preserves on Long Island. Many other illustrations might be cited showing that the successful private preserve is not merely advantageous to the owner, who bears the expense, but also benefits the public by stocking the immediate neighborhood with game.

DUCKING PRESERVES.

During the last fifteen years duck shooting has rapidly increased in popularity, and many preserves have been established by clubs and individuals for the purpose of furnishing good shooting under the most favorable conditions. California, Illinois, North Carolina, and Virginia have the largest number of such preserves. Next in order stand New York, Michigan, Wisconsin, Minnesota, Ohio, Maryland, Arkansas, Oregon, and Washington.

Preserves for duck shooting usually comprise tracts of marsh along the coast or larger rivers, and vary in size from a few acres to several square miles. Among the more important coastal preserves are those on the south shore of Long Island; upper Chesapeake Bay, in Maryland; tidewater Virginia; Currituck Sound, North Carolina; and the Suisun marshes, California. The principal inland preserves are along the Illinois River, on the Mississippi below the mouth of the Ohio, and on the Sacramento and San Joaquin rivers in California. In the lake region the more important are in Minnesota and Wisconsin; on the St. Clair Flats, Michigan; and at the west end of Lake Erie, in Ohio.

The largest ducking preserves are probably those on the west side of the San Joaquin Valley, California, one or two of which include upward of 40 square miles, or more than 25,000 acres each. They are held under lease, and being too large to fence or to patrol by wardens are effectively protected by injunction. Comparatively few ducking preserves are fenced; nevertheless many have improvements of considerable value, consisting of clubhouses, often with elaborate appointments, boathouses, boats, and all the paraphernalia essential for modern duck shooting.



FIG. 1.—APPROACH TO THE CLUB HOUSE, SHOWING THE DAM SEPARATING THE OCEAN FROM THE MARSH; SALT WATER ON THE LEFT; FRESH WATER ON THE RIGHT.

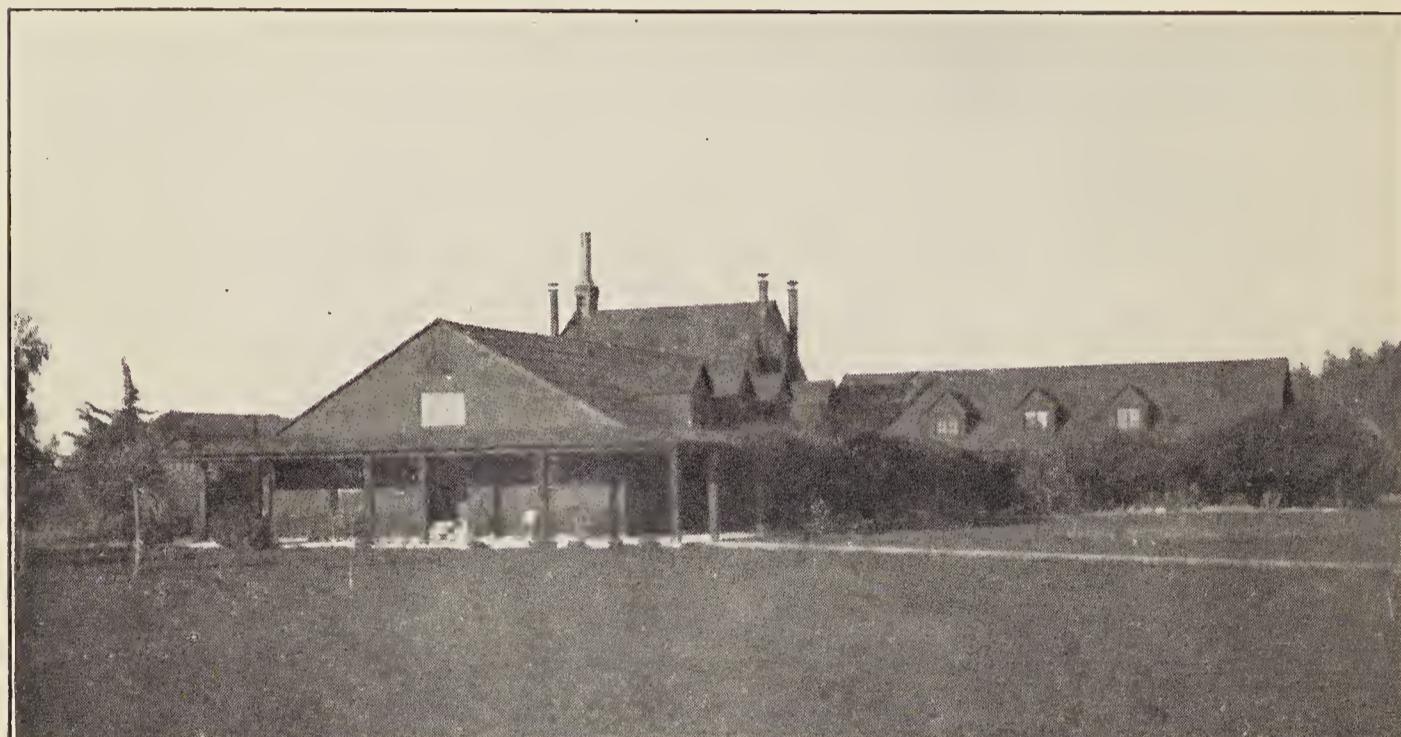


FIG. 2.—GENERAL VIEW OF THE CLUBHOUSE.



FIG. 3.—INTERIOR VIEW OF THE LARGE DINING HALL.

PRESERVE OF THE BOLSA CHICA CLUB, ONE OF THE LARGEST DUCKING PRESERVES IN SOUTHERN CALIFORNIA.

A preserve of special interest is that of the Bolsa Chica Club, near Newport Bay, in southern California. This club, organized by Count Jaro von Schmidt in 1898, purchased a tract of land in Orange County comprising about 3,000 acres, with a frontage of nearly 3 miles along the ocean. A commodious clubhouse with accommodations for the 40 members was erected, and other improvements were made. (See Pl. II.) An inlet with some 60 miles of channels formerly admitted the tide to much of the property. At high tide nearly two-thirds of the land was submerged, and at low tide this became a more or less barren salt marsh. The erection of a dam and four cement spillways with automatic gates effectually shut out the salt water and gave control of the depth of water within the inclosure. Thirty artesian wells were sunk, which, with the overflow from several hundred more in the drainage district above, furnished an ample supply of fresh water. As a result of excluding the tide and sinking the wells, the tide flat gradually changed from a salt to a fresh water marsh. *Sorghum saccharatum*, chickweed, and other food plants were introduced to attract the birds, and manure was distributed along the edges of the channels, both as a fertilizer and as a means of introducing earthworms and insect larvæ for food for snipe and other birds. The plan proved successful, and the club now enjoys good shooting of jacksnipe, teal, mallards, widgeons, and other birds formerly scarce or absent, in addition to many of the salt-water ducks normally found in that vicinity.

OBJECTIONS TO GAME PRESERVES.

The private game preserve is unpopular in many parts of the United States. That it is increasing in favor in certain sections, that the total number probably exceeds 500 and is constantly growing, and that it is destined to great development in the near future, does not change the fact that its unpopularity in certain localities is so great as to hinder its progress. To many the idea of a tract of land maintained solely for protection of game seems un-American and suggests memories of feudal conditions in Europe which rendered game laws so unpopular. Others believe that the acquisition of large tracts of land for preserves is opposed to development, tends toward class distinction, and places in the hands of a few privileges which belong to the public. There can be no doubt that under certain conditions the private preserve may be so managed as to deprive some citizens of their rights and to create a monopoly of hunting privileges. One of the regions in which opposition is most pronounced is in the Adirondacks in New York. Here, in 1902, the private preserves for hunting, fishing, and camping numbered 60, with a total area of 791,208 acres, as compared with 1,163,414 acres in the state

park. Most of these preserves have been established since 1885, and although their area has decreased somewhat in recent years through purchases by the State, they still comprise a large proportion of the Adirondack region. Commenting on conditions then existing, the Forest, Fish, and Game Commission, in its report for 1902, declared:

The comparatively sudden exclusion of the public from its old camping grounds has provoked a bitter hostility on the part of the hunters, fishermen, and guides who formerly ranged over this territory. The sportsman who returns to some favorite haunt only to find himself confronted with the words "No thoroughfare" turns back with a resentful feeling, while the guides who were wont to conduct their patrons wherever game was plentiful view with threatening looks the hired gamekeepers that guard the forbidden lands. (Eighth Ann. Rept., p. 34, 1903.)

How far such objections are justified can best be shown by reference to some of the legislation which has resulted from this opposition. The problem of the future is to so adjust matters that, as far as possible, objections may be overcome, the rights of all classes respected, and practical monopoly of privileges by a few prevented.

ADVERSE LEGISLATION.

Opposition to private game preserves has frequently been manifested in the form of hostile legislation. Attempts have been made to prevent nonresidents from hunting on preserves which they had acquired within a State, to open private preserves to the public for fishing, on the ground that the waters had been stocked by the State, and to allow hunting without permission on overflowed marshes on the plea that on overflowed lands the public has the rights of navigation and hunting. Such attempts have not been sustained by the courts, as shown by the decisions of the supreme courts of Michigan in 1888 and 1897,^a of New York in 1903,^b of Arkansas in 1904,^c of Colorado and Illinois in 1905,^d and of the United States circuit court of appeals, eighth circuit, in 1906.^e But notwithstanding the fact that the higher courts have almost uniformly upheld the right of the landowner to his property, even when the land has been converted into a game preserve, legislation by indirection has in several instances seriously impaired the value of such property, if it has not actually deprived the owner of its enjoy-

^a *Sterling v. Jackson* (37 N. W., 845); *Hall v. Alford* (72 N. W., 137).

^b *Rockefeller v. Lamora* (83 N. Y., Supp., 289).

^c *State v. Mallory* (83 S. W., 955).

^d *Hartman v. Tresise* (84 Pac., 685); *Schulte v. Warren* (75 N. E., 783).

^e *Harrison v. Fite* (148 Fed., 781).

ment. The numerous methods of accomplishing the purpose are ingeniously framed to avoid attack on grounds of unconstitutionality, class legislation, or interference with vested rights. Property in game preserves is peculiarly sensitive to surrounding conditions, and its value may be jeopardized in many ways. The shifting of an open season, the omission of a few words from a bill, or the insertion of a clause prohibiting shipment or sale are the apparently innocent means by which a preserve owner's interests may be placed at the mercy of his opponents. A few examples will illustrate this point more clearly. The ducking clubs on Lake Erie have at times encountered much local opposition, and in the Ohio legislature of 1900 this opposition took the form of an amendment to the game law whereby the season for hunting ducks was changed so as to open on November 10 (a date at which most of the marshes are frozen and the birds have left for the South), but was left open in the spring. The change was made advisedly on the theory that the members of the ducking clubs, prevented by law from hunting in the autumn, would thus be deprived of all opportunity for sport, since, as sportsmen, they would refrain from shooting in spring, while others, not bound by a sportsmanlike principle, could enjoy the shooting during the spring migration. In 1897 the legislature of North Carolina enacted a special law for Currituck County, prohibiting nonresidents from shooting afloat. (Laws 1897, ch. 291.) The numerous ducking clubs located along Currituck Sound are composed almost entirely of nonresidents, and this measure, which reserved to residents the privilege of shooting from boats, was aimed directly at the clubs.

Pheasant preserves in New Jersey, owned partly by residents of New York, have been remarkably successful in rearing large numbers of birds, but the owners have been handicapped by inability to dispose of surplus male stock. The law of New Jersey does not permit the sale of pheasants or other game birds in close season, nor does that of New York, except in the case of birds reared on Long Island. With a view to opening the market in New York City for these birds on the same basis as for those from Long Island, efforts have been made at several sessions of the New York legislature to secure the passage of a bill making an exemption in favor of breeders of foreign pheasants, but thus far without success.

In California efforts were made in 1909 to induce the board of supervisors of Marin County to close the season on quail for several years on the plea that the birds had become so reduced in numbers that a close season was necessary for their increase. The movement was actually directed against the owners of certain private preserves, who had bought or leased considerable tracts of land as game pre-

serves where quail shooting was the main diversion. A close season for several years in the county would thus practically deprive the owners of the use of their property so long as the ordinance remained in force. Similarly, the object of the proviso incorporated in the state game preserve act of March 20, 1909, "That no provision in this act contained shall be construed as prohibiting or preventing any person or persons from hunting or taking fish and wild game from or on navigable water," was intended to prevent the use of certain areas near Newport Bay, in southern California, as a game preserve.

One of the broadest general provisions thus far enacted to limit the operation of game preserves is the New Hampshire law entitled "An act to protect public rights," requiring all associations holding preserves in the State to be incorporated in the State, prohibiting private ownership of bodies of water of more than 20 acres, and restricting ownership in ponds of 10 to 20 acres. (Laws 1901, ch. 9.)

OUTLOOK FOR THE FUTURE.

Whatever may be the feeling in regard to private preserves, they evidently constitute a very important factor in modern game protection, and, as the country becomes more thickly settled, may become one of the chief means of preserving game for future generations. It is true that abuses have crept in; that occasionally the object of preserves has been perverted; that preserves have been established without due regard to the interests of the public; and that they have sometimes been used rather as a means of destroying than preserving game; but such abuses are exceptional and in no way militate against the general idea of establishing refuges where game may be propagated naturally or artificially and maintained safe from attack. Where such abuses exist they should be corrected by regulation and should not be allowed to lead to general condemnation of the preserve system. In a country like the United States, where so much of the land commands high prices for agricultural purposes, the area devoted to game preserves will probably never be large enough to form an appreciable proportion of the total area, as is the case in Scotland, and to some extent in the Province of Quebec. If, however, in any State too much land is likely to be occupied by private preserves or if too much of the game is controlled by a few persons, the remedy lies in licensing the preserve, limiting its size, or increasing the taxes to a point where holding large areas becomes unprofitable. It may even be necessary to subject such property to state supervision, by requiring reports of the amount of game liberated or killed; by regulating methods of hunting or limiting the amount of game that may be killed; by requiring certain definite work in the way of game propa-

gation; and by providing that access be given to duly authorized officers at all reasonable times. Certainly the owner will prefer some such regulations to the present unreasonable attacks on the preserve, or the expense of maintaining his rights by a guerrilla warfare with poachers or by constant litigation in the courts. On the other hand, that element of the general public which is simply opposed to the use of land for preserves, and which holds that landowners in attracting to their own lands game belonging to the State are appropriating public property, will accept such regulation as evidence that the preserve is maintained for public as well as private benefit.

Approved:

JAMES WILSON,

Secretary of Agriculture.

WASHINGTON, D. C., April 5, 1910.

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